

DETAILED ACTION

1. This Office Action is in response to the Board of Patent Appeals and Interferences decision, mailed on July 27, 2012. Examiner acknowledges Claims 21-36 are pending in this application, with claims 1-20 having been cancelled.

Drawings

2. Color photographs and color drawings are not accepted unless a petition filed under 37 CFR 1.84(a)(2) is granted. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings and black and white photographs have been satisfied. See 37 CFR 1.84(b)(2).

Specifically, Figure 1 of the drawings include shaded boxes 106 and 108 and a shaded valve 100. Examiner requests Applicant unshaded the aforementioned boxes and valve as seen in Figure 1.

REASONS FOR ALLOWANCE

3. The following is an examiner's statement of reasons for allowance: The prior art made of record does not disclose or teach the device for controlling the aerosol delivery

having the specific structure and relationship as claimed in claims 21, 28, and 32, explicitly the feature of the "flow resistance of the valve in the inhalation direction at the onset of inhalation, or the flow rate through the valve during the remainder of the inhalation phase", wherein the second or subsequent flow resistance is less than the previous flow resistance and the second or subsequent flow resistance permits a higher flow rate as addressed in the Board of Patent Appeals and Interferences decision, mailed on July 27, 2012, on Page 4.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANNETTE DIXON whose telephone number is (571)272-3392. The examiner can normally be reached on Monday thru Friday 0530 to 1400.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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